



Appellant filed a claim for a schedule award. The Office informed him that he was responsible for furnishing a physician's report establishing that he had a permanent impairment to his upper or lower extremities as a result of his unilateral inguinal hernia.

On April 13, 2006 Dr. Michael S. McManus, a specialist in occupational medicine, reported that appellant had reached maximum medical improvement. He stated:

“Patient states present symptoms stable and unchanged for the past approximately two and a half years. Patient states continues to experience episodes sharp or stabbing pain with chronic sense of tightness right inguinal region. Pain aggravated by excess ambulation, lifting or carrying heavy objects and/or intercourse. Patient denies any recurrent local mass. Patient denies any wound breakdown, drainage, local swelling, or associated symptoms.”

\* \* \*

“Patient states secondary to residual right inguinal symptoms, nonwork activities he has had to limit or discontinue include taking walks, jogging or running, and yard work or gardening.”

Dr. McManus diagnosed status post right direct inguinal herniorrhaphy with mesh placement. He determined that appellant's impairment was best described as a mild Class I impairment, estimated to equal two percent of the whole person from Table 6-9, page 136, of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed. 2001).

On August 23, 2006 the Office denied appellant's claim for a schedule award. The Office explained that Dr. McManus did not report impairment to any scheduled member, organ or function of the body.

### **LEGAL PRECEDENT**

Section 8107 of the Federal Employees' Compensation Act<sup>1</sup> authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. Such loss or loss of use is known as permanent impairment. The Office evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*.<sup>2</sup>

The Act does not authorize schedule awards for permanent impairment of “the whole person.”<sup>3</sup> The Act authorizes schedule awards for only those members, organs and functions of

---

<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> 20 C.F.R. § 10.404 (1999). Effective February 1, 2001 the Office began using the fifth edition of the A.M.A., *Guides* as per FECA Bulletin No. 01-05 (issued January 29, 2001). See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Exhibit 4 (June 2003).

<sup>3</sup> Ernest P. Govednick, 27 ECAB 77 (1975).

the body that are specified in the Act and in the implementing regulations.<sup>4</sup> Amendments to the Act modified the schedule award provisions to provide for an award for permanent impairment to a member of the body covered by the schedule regardless of whether the cause of the impairment originated in a scheduled or nonscheduled member.<sup>5</sup>

The burden is upon the employee to establish by evidence that he is entitled to compensation.<sup>6</sup>

### ANALYSIS

Dr. McManus' impairment rating of two percent of the whole person provides no basis for the payment of a schedule award because the Act does not recognize impairments of "the whole person." The Act recognizes impairments of the arm, leg, hand, foot, thumb, fingers and toes. The Act authorizes compensation for loss of hearing, loss of vision and the loss of an eye. Section 8107(c)(22) of the Act authorizes awards for the permanent loss or loss of use of "any other important external or internal organ of the body as determined by the Secretary" of Labor.<sup>7</sup> The Secretary made such a determination and added the following organs to the compensation schedule: breast, kidney, larynx, lung, penis, testicle, tongue, ovary, uterus/cervix and vulva/vagina.<sup>8</sup>

Because Dr. McManus did not report an impairment of any of these specified members, organs or functions of the body, his report does not support appellant's claim for a schedule award. He noted that appellant had episodes of a sharp or stabbing pain with a chronic sense of tightness in the "right inguinal region," but he did not report a peripheral nerve injury or any pain radiating into the leg, penis or testicle from the site of appellant's direct inguinal hernia. As a result, his findings do not support impairment to the leg or penis or testicle originating from the site of the hernia.

It may be that activities of daily living aggravate appellant's pain at the operative site, and that this in turn limits his activities of daily living. But with no medical opinion explaining how residuals of the accepted employment injury have caused impairment to a scheduled member, organ and function of the body according to the criteria of the A.M.A., *Guides*, appellant has not met his burden of proof to show that he is entitled to a schedule award.

---

<sup>4</sup> *Thomas E. Montgomery*, 28 ECAB 294 (1977).

<sup>5</sup> As the schedule award provisions of the Act include the extremities, a claimant may be entitled to a schedule award for permanent impairment to an extremity even though the cause of the impairment originated, for example, in the spine. *Rozella L. Skinner*, 37 ECAB 398 (1986).

<sup>6</sup> *Harold Hendrix*, 1 ECAB 54 (1947).

<sup>7</sup> 5 U.S.C. § 8107(c)(22).

<sup>8</sup> 20 C.F.R. § 10.404(a) (1999).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that he is entitled to a schedule award.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 23, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 12, 2007  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board